

REMARKS

Claims 2-5, 8, and 10-28 were pending in this case. Upon entry of this Supplemental Amendment Claim 29 will be added, thus Claims 2-5, 8 and 10-29 will be pending in the case.

Applicants have amended the claims to make it quite clear that what is claimed is the novel compound of the present invention or a salt thereof, and not a compound of the compound and a salt thereof. Claim 29 has been added to claim the present invention in more varying scope.

The Office Action provides a double patenting rejection over U.S. Patent No. 5,094,685, and applicants pointed out in the prior amendment that this was not a proper rejection as U.S. Patent No. 5,094, 685 is assigned to Nissan Chemical Industries whereas the present application is assigned to Bayer AG.

The undersigned has subsequently realized that the Examiner may have been, and probably was in fact, referring to U.S. Patent no. 5,094,683 to Daum et al in connection with the double patenting rejection, which is in fact assigned to Bayer AG. The undersigned wishes to assure the Examiner that he was not seizing upon the typographical error as a pretext to remove the double patenting rejection, and in fact should have realized this was probably a typographical error. In fact, the undersigned made the same typographical error in the last line of the third paragraph of the Remarks section of the previous amendment, where the undersigned meant to refer to U.S. Patent No. 5,094,683. The undersigned apologizes for any confusion caused by not making that observation sooner.

In response to any double patenting rejection over U.S. Patent No. 5,094,683, Applicants respectfully urge that in light of the remarks and amendments to the claims in the previous Amendment filed November 12, 2003, that the claims as they presently stand are novel, unobvious and do not constitute double patenting over Claims 1-9 of U.S. Patent No. 5,094,683. If the Examiner disagrees, Applicants respectfully request and would appreciate a more detailed explanation of why the present claims as amended would support a double patenting rejection over U.S. Patent No. 5,094,683.

Applicants include herewith a Form PTO 1449 which lists U.S. Patent No. 4,659,361 which the Examiner may find relevant in connection with certain intermediates described in the present specification, particularly the 2-methyl compound in Table 6 of Column 24 of the patent.

In view of the foregoing, it is believed the claims are in condition for allowance. Review and reconsideration of the claims and allowance of the same are respectfully requested.

Respectfully submitted,

By


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